

Arkansas State Board of Embalmers and Funeral Directors  
Emergency Board Meeting Teleconference

MINUTES

Wednesday, January 21, 2015 -2:00pm  
101 East Capitol  
Little Rock, AR

Members present via the teleconference were: President, James Terry Woodard, Vice President Bobby Thurman, Bobby Burns, Jerry Adams, Patricia Roberts, Ben Brazzel, and John Wilkerson. Staff that were present: Amy Goode, Executive Secretary, Leslie Stokes, Inspector, and Julie Chavis, Board Counsel. There were several members of the public also on the conference call. President Woodard called the emergency meeting to order.

The purpose of the emergency meeting today is concerning the matter at Arkansas Funeral Care in Jacksonville, AR. President Woodard turned over the meeting to counsel Julie Chavis.

Ms. Chavis stated we were here for an emergency hearing pursuant to the Administrative Procedures Act specifically Ark. Code § 25-15-211 (c) which provides for emergency hearings. This emergency hearing concerns allegations against LeRoy Wood and Arkansas Funeral Care, LLC in Jacksonville, AR. It will be up to the Board today after she elicits testimony from Inspector Leslie Stokes to determine whether or not what she observed during her inspection and subsequently investigation rises to level of a threat to the public health, safety, and welfare that requires the Board to take emergency action to temporarily suspend Mr. Wood's license. The procedure under the APA is that if the Board takes action today that there has to be an immediate full blown hearing for the purpose of determining whether revocation or other action by the Board is warranted as a result of this emergency hearing.

Today we will conduct the emergency hearing and if the Board decides to suspend the licenses then we will have a formal hearing on Friday, January 23, 2015 at 1:00 p.m.

Ms. Chavis called Leslie Stokes as her witness to establish the purpose of the emergency hearing. As part of her job as inspector she did make a visit to Arkansas Funeral Care approximately six (6) months ago and found no problems with the facility. When she went back as a routine follow-up on Monday, January 12<sup>th</sup> things were much worse. After that inspection on Monday, Ms. Stokes made visits for the next four days. On Monday, January 12<sup>th</sup> Ms. Stokes observed the door to the holding facility was not locked and secured from access to the general public. The preparation room was not locked. She found that their cooler was filled beyond capacity with bodies. There were at least seven (7) bodies outside the cooler that were not embalmed two of which were laying on a wooden table that was stacked on top of two wooden pallets on the floor. Another body was strapped to a cot that was in obvious state of decomposition that was half surrounded with a bed sheet that was saturated in what appeared to be bodily fluids that had seeped from that body.

Also during the inspection of that week, Ms. Stokes found that the floor of the crematory unit was in poor condition. Ms. Chavis asked Ms. Stokes to explain why she thought it was in poor condition. There was a barrel sitting next to the retort with what appeared to be ash and chunks of hard matter that Mr. Wood explained was part of the floor of the retort that was coming apart and that is where they stored the excess flooring coming out of the retort. Ms. Chavis inquired of Ms. Stokes if she believed there to be ash mixed in the barrel with the chunks of flooring. Ms.

Stokes response was that she did have reason to believe there was ash substance with the chunks in that barrel. Ms. Chavis inquired about the graphing chart on the side of the retort. Ms. Stokes stated that she was told that the graphing chart was not functioning properly at this time. She was told that only one needle was working on the graphing chart. Ms. Stokes stated that as part of her inspections she would check to see if those items were in working order, but that the requirement of them to be working she thought would also fall under the Arkansas Department of Environmental Quality. Ms. Chavis inquired if as part of her job she would inspect these items. Ms. Stokes then referred to the rules and regulations and read verbatim the following from Rule IV (4) (i) (1): "The crematory, cremation chamber, and all related buildings and equipment shall be maintained in a clean and sanitary manner. All equipment in and related to the crematory shall be maintained in good condition according to the directions given by the manufacturer of the equipment and the appropriate regulatory authorities."

Ms. Chavis inquired of Ms. Stokes if she was alleging violations of Ark. Code Ann. 17-29-304 (e) that requires an establishment in which embalming is performed shall contain a preparation room with sanitary floors, walls, and ceilings. Ms. Stokes stated she was alleging that during her visits there she did observe unsanitary walls and floor. She saw a substance splattered on the wall that appeared to be blood. She also observed what appeared to be bodily fluids on the floor that was leaking from a body that was in a state of decomposition. Ms. Chavis inquired that even though she was unable to positively identify that there was blood on the walls and bodily fluids on the floor, she would agree that the prep room was not clean and sanitary. Ms. Stokes stated that was true.

Ms. Chavis referenced an allegation to Ark. Code Ann. 17-29-311 (f) and inquired if Ms. Stokes believed that the dead bodies not buried or otherwise disposed of were beyond the twenty-four (24) period in which to be buried or otherwise disposed. Ms. Stokes stated yes she did believe that. That was concerning the seven (7) bodies that were outside the cooler that had not been embalmed laying on wooden tables and pallets on the floor and also the body strapped to a cot. Ms. Stokes stated that she could not confirm that if on Monday the body on the cot had been embalmed, but that she did check later in the week. She found that the body had been through some sort of embalming process, however it was in decomposition. Ms. Chavis stated the body was not properly refrigerated and Ms. Stokes confirmed, "No it was not properly refrigerated for a body that was decomposing and obviously leaking bodily fluids."

Ms. Stokes did reiterate that the cooler was filled beyond capacity. When she checked the cooler there was twenty-five (25) bodies in the cooler racks and in the center was a cot with a body and another body stacked directly on top of it. This was not something she would normally observe during a course of her inspections. There were no more shelves in the cooler to accommodate more bodies and there was bodies stacked on top of each other. In reference to Ark. Code Ann. 17-29-311 (a) (10), this concerns a violation of any state law or municipality, county ordinance, or regulations affecting the care, custody, transportation, or final disposition of a dead human body. Ms. Stokes does believe that there is a possible violation of Ark. Code Ann. 5-60-101 which concerns abuse of a corpse. Ms. Stokes stated if she were directed by the Board that she would make a complaint to the prosecuting attorney concerning abuse of a corpse.

Concerning the violations of the rules that govern the embalmers and funeral directors, Rule IV 4. D. 2. (c) that states a body not embalmed shall be held no longer than twenty-four (24) hours unless within a refrigerated facility. Ms. Stokes stated, that "yes she does believe there was a violation of this rule."

In reference to Rule IV 4. (i) 1., do you believe there is a violation of this rule due to the poor condition of the floor and graphing chart not in working order? Ms. Stokes stated yes she did.

Ms. Stokes stated she had nothing further to add at this time. Ms. Chavis turned over the witness to the Board members for questions. Bobby Thurman inquired of the capacity of the cooler. Ms. Stokes stated she was not aware of the specific number, but that the racks in the cooler were full and when they were out of room bodies were stacked on top of one another on cots in the front of the cooler. Mr. Woodard inquired how many bodies were in the prep room. Ms. Stokes stated there were four (4) bodies in the prep room. There were three (3) to left when you walked in and one of those three was the body in decomposition. There was also a body on the prep table that had been embalmed, but was laying there uncovered and completely nude. Ms. Stokes also responded that from what she saw they all appeared to be tagged. On the crematory processor she did observe bone fragments that had not been processed in the tray. Mr. Woodard inquired if it appeared to be more than one set of bone fragments. Ms. Stokes stated she had no proof of that and it would be a judgment call. Mr. Woodard inquired if all the bodies in the prep room had been embalmed and Ms. Stokes answered no they were not all embalmed. Mr. Burns inquired if the container next to the crematory unit had cremains in it. Ms. Stokes stated that it did appear to be cremains mixed in with chunks of the floor, and some ash substance material. She did not observe any actual bone fragments in the container. Mr. Wilkerson inquired if she found the stacking of the corpses or any of the things mentioned concerning the handling of the corpses to be offensive. Ms. Stokes stated she was taken aback by the improper storage that this funeral home was displaying with their bodies. Ms. Stokes stated that bodies stacked on top of each other was not a normal practice of the funeral homes. Mr. Wilkerson stated that it was offensive to him and Mr. Woodard stated that even though you're a new member, it's offensive to all of the Board members. Ms. Stokes stated she had not observed this at any other location during an inspection.

Mr. Wilkerson inquired about the Tuesday visit to the funeral home. Ms. Stokes stated that on Tuesday evening around 6:30 pm she entered the facility through the front door; they were having a visitation. She walked in and through the funeral home to the holding facility and prep room that were both unlocked. There were still bodies unrefrigerated and un-embalmed, there was no one in the holding facility or prep room, and she was back there approximately ten (10) minutes. During that time, no one ever came back there or asked her what she was doing. Nothing had changed as far as the conditions on Tuesday evening from Monday. The body that was leaking bodily fluid was still there on the same cot and leaking bodily fluids on the same sheet. Mr. Wilkerson inquired if on Monday they knew who she was and Ms. Stokes answered yes. Also he inquired if on Monday she made them aware of her findings. Ms. Stokes stated that on Monday, she did not discuss a whole lot, but that she did ask Ed Snow "if he considered that ethical storage of bodies and was that common practice." Mr. Snow stated that they were going to move them when they got a cot. Basically Monday she just made observation. Mr. Wilkerson inquired if they had made any changes during the time since she arrived that week. Ms. Stokes stated that on Tuesday evening there was no bodies stacked inside the cooler and by the time Wednesday arrived they were better organized and had bodies on individual cots. The storage problem was a little better by Wednesday, Thursday bodies had been cremated or buried, but they had received more bodies between Thursday and Friday so the situation was similar the rest of the week. By Friday there were still bodies in the holding facility un-embalmed. Mr. Adams inquired if photographs had been taken on Monday. Ms. Stokes stated that she did and the photos will be available for the hearing. Mr. Woodard inquired if they had any records indicating how long these bodies had been there. Ms. Stokes stated that she did an inventory on Wednesday of every one that was there. She did get copies of all the files for each body in the funeral home on Wednesday that would have date of death and first call information. They have an inventory list on the cooler and list of those cremated. They had a 2014 embalming log, but could not find their log

for 2015. Mr. Burns inquired if during the investigation in her opinion as inspector that there was a risk to the health, safety, and welfare of the public. Ms. Stokes stated that yes, due to the rooms to the holding facility being unlocked and that there was access to the general public.

Mr. Woodard inquired if it were true they advertised all around the state and Ms. Stokes replied she believed that they did. Mr. Woodard questioned if this was an abnormal number of cases in a month for them or what was their reason for so many bodies. Ms. Stokes stated that Mr. LeRoy Wood told her that he had had an abnormal number of cases for the month of January for this year. He stated he had been sick the week before and that is the reason they had gotten behind. Ms. Stokes said she would have to go back and look at previous month's numbers to verify that statement. Mr. Thurman stated that you can go to their website and count seventy (70) obituaries for December. In the month of January on that one day they had thirty-five (35), so that he would imagine they are doing 60-70 a month on average. They seem to do a large volume and don't have enough facilities.

Mr. Burns inquired about the employees that work there. Ms. Stokes stated Mr. LeRoy Wood is the owner and licensed manager. Mr. Snow is a licensed employee. They have four funeral directors and one embalmer. Mr. Woodard stated that if they are advertising all over the state and receiving bodies all over the state that they only have four directors. There were no further questions of Ms. Stokes.

Ms. Chavis stated since the Board had nothing in front of them, that she would like to summarize nine (9) findings of fact, that she would ask you to adopt. Then she would like to read conclusion of law that she would also ask the Board adopt, and then in conclusion a proposed order for the Board to adopt.

#### Summary of Findings of fact:

- LeRoy Wood holds a funeral director license issued by the Board;
- That he serves as the manager of Arkansas Funeral Care.
- On January 12, 2015, pursuant to Ark. Code Ann. 17-29-205 (c) that Leslie Stokes inspector for the Board conducted an inspection of Arkansas Funeral Care, located at 2620 West Main Street in Jacksonville, AR.
- That she made subsequent visits on January 13<sup>th</sup>, 14<sup>th</sup>, 15<sup>th</sup>, and 16<sup>th</sup> of 2015.
- That during her inspection she observed and documented several violations of statutes, rules, and regulations that govern embalmers, funeral directors, and funeral establishments.
- Specifically Ark. Code Ann. 17-29-304 (e), 17-29-311 (f), 17-29-311 (a) (10), 5-60-101, and Rules IV-4. D. 2 (c), IV 4. (i) 1.
- Regarding the statute cited, Ms. Stokes observed what she had reason to believe was blood on the prep room floor and bodily fluids on the floor or at the very least unsanitary conditions.
- She observed that the holding facility was neither locked nor secured from access to the general public and that the prep room was unlocked.
- She observed twenty-five (25) bodies in the cooler, every rack was filled, and there was a cot stacked with two bodies in the cooler. That cooler was filled beyond its capacity. She observed seven (7) bodies in the holding facility that were un-refrigerated and un-embalmed. Two of which were laying side by side on a wooden board setting on top of two wooden pallets on the floor. Another body was strapped to a cot in obvious state of decomposition half surrounded by a bed sheet that was covered in bodily fluid that appeared to have seeped from the body.

- She noted that the floor of the crematory was coming apart in chunks and has reason to believe that there is what appeared to be cremains mixed in with the debris from the flooring in a barrel. She was told the graphing chart is not in proper working order; that only one needle worked on the chart.

Summary of conclusions of law:

Based on those findings of fact, the Board was asked to find that the conclusions of law, findings of fact that was just outlined constitute violations of 17-29-304 (e), 17-29-311 (f), 17-29-311 (a) (10), 5-60-101, and Rules IV-4. D. 2 (c), IV 4. (i) 1. Ms. Chavis stated that she asks the Board to find that the public health, safety, or welfare requires immediate action in the form of suspending the license of LeRoy Wood and Arkansas Funeral Care pursuant to Ark. Code Ann. 25-15-211 (c).

Motion made by Burns to find factual allegations 1-9 true, seconded by Brazzel, all in favor. Motion carried.

Motion made by Brazzel, to find the conclusions of law presented to the Board be found true pertaining to LeRoy Wood and Arkansas Funeral Care, seconded by Roberts, all in favor. Motion carried

Ms. Chavis stated that she has prepared an emergency order outline and almost has finished the notice of hearing that the staff will be able to serve this afternoon, along with a police or sheriff escort. This will suspend their licenses to operate and is one of the reasons to have the formal hearing on Friday. There will be no action at this time on Mr. Snow, this emergency order just concerns LeRoy Wood and Arkansas Funeral Care.

Jeff Smith, President of the Arkansas Funeral Directors Association stated that the funeral homes of Arkansas and the members of AFDA are more than prepared to step in and help these families in need. They are more than ready to come along beside the Board with the Board asking them to help, and facilitate helping these families with refrigeration, cremations, arrangements, etc. The funeral community wants to come together and help these families.

Executive Secretary inquired of the families that have already paid money to Arkansas Funeral Care for services that have not been received like cremation. Mr. Burns stated this was uncharted territory, but felt there would be funeral homes willing to step in and help out. Ms. Chavis stated these families will have a cause of action that's independent of what the Board might do in circuit court or small claims court. Mr. Burns reiterated what President Smith mentioned that there will be funeral homes willing to step in and help out.

Pulaski County Coroner's office has been notified to assist the Board with removal and storage of the deceased. Mr. Woodard inquired if they would have enough space. We will not know until we get there what kind of storage we will need. Jim Dial with Dial & Dudley mentioned they could offer some cooler space if necessary.

The Inspector had some questions that were addressed and there was no further discussion.

Motion made by Brazzel to adjourn, seconded by Adams, all in favor. Motion carried.